



24/7 SECURITY FOR THE
COWLITZ INDIAN TRIBE REQUEST FOR
PROPOSAL
("RFP")

900 Fir Street, Longview WA 98632

JUNE 10, 2024
COWLITZ INDIAN TRIBE

TABLE OF CONTENTS

COVER SHEET

REQUEST FOR PROPOSALS (RFP) FOR CONTRACTORS

SPECIAL CONSIDERATIONS

SINGLE POINT OF CONTACT

RFP SUBMITTAL TERMS

TYPE OF BID

PRE-PROPOSAL CONFERENCE, SITE VISIT, QUESTIONS

PUBLIC INFORMATION STATUS

DOCUMENT EXAMINATION AND PROCUREMENT

PROPOSAL CONTENT & REQUIREMENTS

PREQUALIFICATION

EVALUATION CRITERIA

SELECTION PROCESS

CIT'S RIGHT TO REJECT BIDS

CIT'S BEST INTEREST

INSURANCE REQUIREMENTS

COMPLIANCE WITH STANDARDS

TARGET SCHEDULE OF EVENTS

SOVEREIGN IMMUNITY

ATTACHMENT A – SCOPE OF WORK (1 PAGES)

ATTACHMENT B – BID FORM (2 PAGES)

ATTACHMENT C – NON-COLLUSION AFFIDAVID (1 PAGE)

ATTACHMENT D – SAMPLE CONTRACT WITH SUPPLEMENTAL CONDITIONS (15 PAGES)

REQUEST FOR PROPOSAL (RFP)		
RFP Title: 24/7 Security for The Cowlitz Indian Tribe		
RFP Response Due Date and Time: 3:00 P.M. PST, July 10th, 2024	Number of Pages in RFP packet (including cover and all Attachments): 29	Issue Date: June 10 th , 2024, Monday
ISSUING AGENCY INFORMATION		
Cowlitz Indian Tribe (CIT) 1055 9 th Avenue, Longview, WA 98632 Single Point of Contact (SPOC): Cari Clizbe, CIT Project Coordinator Tel. (360) 787-4617 x2739, email cclizbe@cowlitz.org		
INSTRUCTIONS TO BIDDERS		
Submit Proposal to: Cari Clizbe Project Coordinator Cowlitz Indian Tribe 929 Fir Street Longview WA. 98632 cclizbe@cowlitz.org	Mark Face of Envelope with: “RFP Response - Title: 24/7 Security for The Cowlitz Indian Tribe”	
Special Instructions: Two hard copies of the RFP response proposal must be submitted in sealed envelope by RFP Response Due Date and Time listed above. Additionally, an electronic copy must be emailed to cclizbe@cowlitz.org the following morning. Emailing electronic copies of proposals prior to Due Date and Time will disqualify the entire proposal process for this RFP solicitation. <u>Do not email RFP response proposals prior to Response Due Date and Time.</u>		
FIRMS MUST COMPLETE THE FOLLOWING		
Firm Name/Address:		
	(Name and Title)	
	(Signature)	
	Print name and title and sign in ink. By submitting a response to this RFP, offeror acknowledges they understands and will comply with the RFP specifications and requirements	
Type of Entity (e.g., corporation, LLC, etc.)	Phone Number:	
E-mail Address:	Fax Number:	
FIRMS MUST RETURN THIS COVER SHEET WITH RFP RESPONSES		

REQUEST FOR PROPOSALS (RFP) FOR SECURITY 24/7

The Cowlitz Indian Tribe (CIT) is soliciting proposals to **provide security 24/7 for the Tribal properties in Longview WA 98632**, as described in Scope of Work provided in **Attachment A**. Contractor is responsible to obtain all necessary permits as required. All work must meet federal, state, and local standards, laws, specifications, and codes.

SPECIAL CONSIDERATIONS

- A. Upon award of this contract to the successful bidder, this RFP will be referenced and incorporated as an attachment to the contract between both parties.
- B. Pricing is valid for 90 days.

SINGLE POINT OF CONTACT

The Single Point of Contact (SPOC) for this solicitation is:

Cari Clizbe, Cowlitz Indian Tribe Project Coordinator
929 Fir Street, Longview WA 98632

Office: 360-787-4617, Ext. 2739, Cell: 360-353-8913, cclizbe@cowlitz.org

RFP SUBMITTAL TERMS

- A. Proposals, addressed and mailed or emailed to **Cari Clizbe, cclizbe@cowlitz.org**, must be submitted on attached **Bid Form**, provided in **Attachment B**, and received at CIT Public Works Department Building at:
929 Fir Street, Longview, WA 98632, no later than
RFP Response Due Date and Time:
3:00 P.M. PST, July 10th, 2024, Thursday
- B. Late proposals will not be accepted.
- C. Proposals shall be marked:
“RFP Response – 24/7 Security for The Cowlitz Indian Tribe”
- D. Two hard copies of the RFP response proposal must be submitted in sealed envelope by RFP Response Due Date and Time listed above. Additionally, an electronic copy must be emailed to **cclizbe@cowlitz.org** the following morning after **July 10, 2024**. Emailing electronic copies of proposals prior to the Due Date and Time will disqualify the entire bidding process for this RFP solicitation.
- E. Proposals are scheduled for opening at:
3:00 PM, July 10, 2024, Wednesday
In Cowlitz Indian Tribe Public Works Office
929 Fir Street, Longview WA. 98632

TYPE OF BID

This bid shall be for the entire project including labor, materials, equipment, permitting, etc. – all in accordance with the Scope of Work provided in **Attachment A**.

PRE-PROPOSAL CONFERENCE, SITE VISIT, QUESTIONS

Potential Bidders are strongly recommended to participate in a Site Visit. Site Visits are scheduled upon request. For more information or exceptions please contact:

Cari Clizbe, Public Works Project Coordinator, Cowlitz Indian Tribe

929 Fir Street, Longview WA. 98632

Tel.: (360) 787-4617, Ext. 2739, Cell: 360-353-8913; cclizbe@cowlitz.org

Questions about the RFP must be submitted **via e-mail or in writing** to the single point of contact on or before:

3:00 P.M. PST June 24th, 2024, Monday

No additional project questions will be addressed after this date.

A Response addendum with all questions received and Cowlitz Indian Tribe's responses will be posted in an Addendum on **July 1st, 2024** on the Cowlitz Indian Tribe website at <https://www.cowlitz.org/newsroom/announcements>. It is the responsibility of each firm to check this website for Addenda or updates about the project.

PUBLIC INFORMATION STATUS

Subject to exception provided by CIT procurement code, all information received in response to this RFP, including copyrighted material is public information. Proposals will be made available for public viewing after the proposal due date and time. The exceptions to this requirement are (1) bona fide trade secrets meeting the requirements of the Uniform Trade Secrets Act, Title 30, Chapter 14, part 4, MCA, that have been properly marked, separated, and documented; (2) matters involving individual safety as determined by the Cowlitz Indian Tribe; (3) other constitutional protections. The Cowlitz Indian Tribe will provide a hard copy of the RFP responses for interested parties to review during regular business hours at the Cowlitz Indian Tribe Public Works Department, 929 Fir Street, Longview WA. 98632.

DOCUMENT EXAMINATION AND PROCUREMENT

The Contract Documents may be examined at the following locations:

Cowlitz Indian Tribe
Public Works Department
929 Fir Street Longview,
WA

PROPOSAL CONTENT & REQUIREMENTS

Proposals should demonstrate that the contractor has the professional capability and availability to satisfactorily and timely complete all the tasks as described in this RFP. Responses should include:

- A. The contractor's legal name, address, telephone number and principal contact e-mail address.

- B. The experience, qualifications, and assigned roles of all staff to be assigned to the project.
- C. Description of the contractor's prior experience, including any similar projects, location of those project(s), and total construction costs.
- D. Proposed staffing for the project.
- E. Description of the contractor's current work activities and how these will be coordinated with the project, as well as the contractor's anticipated availability during the term of the project.

PREQUALIFICATION

Proposals need to include a minimum of three references that are knowledgeable regarding the contractor's recent performance on projects, including client's name, location where services were provided, contact person(s), contact telephone number, contact e-mail address, and a complete description of services provided, including dates of service. These references may be contacted to verify a contractor's ability to perform the contract. CIT reserves the right to use any information or additional references deemed necessary to establish the ability of the firm to perform the contract. (Negative references may be grounds for proposal disqualifications).

EVALUATION CRITERIA

Submitted Proposals will be evaluated and scored according to the following factors:

- A. Overall quality of the Statement of Qualifications – 15%
- B. The qualifications and experience of the personnel to be assigned to the project, including reference checks - 25%
- C. The contractor's capability to meet time and project budget requirements and the availability of personnel to respond and provide services in a timely manner- 15%
- D. Contractor's location - 10%
- E. Present or projected workload that would affect completion of the project - 15%
- F. Related experience on similar projects - 15%
- G. Recent or current work related to Cowlitz Indian Tribe or it's subsidiaries - 5%

After evaluation of all Proposals, the Tribe will apply tribal preference, in accordance with *Cowlitz Procurement Code §3-208 Tribal Preference*, as follows:

- (1) First preference: 100% Cowlitz Tribal Member-owned business;
- (2) Second preference: 51% or greater Cowlitz Tribal Member-owned business;
- (3) Third preference: Businesses owned in part or whole by other Native American owned business. To qualify for this preference, the minimum amount of Native American-ownership of a partially-Native American-owned business is 51% (fifty-one percent).

In applying Tribal Preference, a contract shall be awarded to a qualified business when its bid is responsive to all other conditions and does not exceed the lowest non-Tribal bid by the following amounts:

- (1) For bids between \$0- \$10,000: 10%
- (2) For bids between \$10,001 and \$50,000: 7%
- (3) For bids between 50,001 and 100,000: 5%
- (4) For bids over \$100,000: 2%.

All bids will be evaluated using Evaluation Criteria provided above and what is in the best interest of the CIT. Highest ranking firm will be identified and announced after selection committee completes review of all bids. Bidders are instructed not to proceed until a signed contract is executed by both parties. A firm or person who proceeds prior to executing a contract or Notice to Proceed does so at its own risk and will be liable for any and all damage caused.

SELECTION PROCESS

Upon receipt of responses, selection committee members will evaluate all responsive proposals and assign scores based on the evaluation criteria stated above. Highest ranking contractor may be asked to attend an interview, or Cowlitz Indian Tribe may opt to open direct negotiations with the highest-ranking contractor that presents the most qualified, highest scoring proposal. If interviews are conducted, finalists are encouraged to bring renderings/photos of related examples of work and any other pertinent past project information.

Contract negotiations will commence with the highest-ranking bidder. The contract will be awarded upon reaching an appropriate price for the work to be done. If an appropriate agreement cannot be reached with the highest-ranked bidder, the second ranked bidder will be approached, and so on. Unsuccessful bidders will be notified as soon as possible.

This solicitation is being offered in accordance with federal and state statutes governing procurement of construction contracts, in addition to Cowlitz Indian Tribe procurement code. Accordingly, the Cowlitz Indian Tribe reserves the right to negotiate an agreement based on fair and reasonable compensation for the scope of work and services proposed, as well as the right to reject any and all responses deemed unqualified, unsatisfactory, or inappropriate.

Cowlitz Indian Tribe reserves the right to increase the scope of work with the selected contractor as long as the increase is within the contractor's ability. Payment and contract terms may be negotiated with the selected contractor.

CIT'S RIGHT TO REJECT BIDS

Cowlitz Indian Tribe reserves the right to waive irregularities and to reject any or all bids. CIT shall select a preferred contractor based on best value to the project and pursuant to CIT's best interest.

CIT'S BEST INTEREST

While Cowlitz Indian Tribe has every intention to award a contract resulting from this RFP, issuance of the RFP in no way constitutes a commitment by the CIT to award and execute a contract. Upon a determination such actions would be in its best interest, the Cowlitz Indian Tribe, in its sole discretion, reserves the right to:

- A. Cancel or terminate this RFP; or
- B. Reject any or all proposals received in response to this RFP; or
- C. Not award a contract, if it is in the Cowlitz Indian Tribes best interest not to proceed with contract execution; or
- D. If awarded, terminate any contract if the Cowlitz Indian Tribe determines adequate funds are not available.

INSURANCE REQUIREMENTS

Before commencing the Work and as a condition of payment, and as part of the Vendor Agreement Amount, Contractor shall purchase and maintain insurance as described below from an insurer admitted to do business in Washington with an A.M. Best financial strength rating of A1 or better, that will protect it from bodily injury or property damage claims arising out of its operations under this Contract, whether the operations are by Contractor, Contractor's consultants or subcontractors, anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

- A. **Commercial General Liability (CGL)** insurance providing bodily injury liability and property damage liability with combined single limits of not less than \$1,000,000 per occurrence. \$2,000,000 general aggregate limits, and Products/Completed Operations aggregate limits of \$2,000,000, written on an occurrence form.

If the Owner requires that Contractor's general liability policy be endorsed so that the aggregate limits of insurance apply on this job, both parties must check the appropriate box: Owner Contractor .

Owner shall be included as an additional insured under the CGL policy. Prior to starting work, Contractor shall provide a copy of the actual additional insured endorsement or blanket additional insured policy wording to the CGL policy that documents the Owner's additional insured status.

- B. **Professional Liability** Insurance to meet or exceed the minimum required by applicable state and federal law.
- C. **Automobile Liability (AL)** insurance with a minimum limit of liability of not less than \$300,000 per occurrence for all owned, non-owned and hired automobiles.
- D. **Workers Compensation (WC)** insurance with a minimum limit of liability of not less than required by the Laws of the State of Washington.

CIT and Contractor will waive their rights of subrogation against one another for any losses covered by the required insurance policies except that Contractor shall be liable for the property insurance deductible if a claim is made against such property insurance and that claim arises out of Contractor's negligence.

COMPLIANCE WITH STANDARDS

This project must comply with all federal and state labor standards as applicable, including compliance with federal Davis-Bacon and/or state prevailing wage labor standards, compliance with Cowlitz Indian law, and notwithstanding the Indian Preference Act, Section 703(i) of the 1964 Civil Rights Act assuring equal opportunity labor standards and others, as applicable.

TARGET SCHEDULE OF EVENTS

EVENT	TIME	DATE
RFP issued		June 10 th , 2024 Monday
Mandatory Site Visit		By appointment only
Written Questions due to CIT	3:00 P.M.	June 24 th , 2024 Monday
Addendum with Questions & Answers Issued by CIT		July 1 st , 2024 Monday
RFP Proposals Due to CIT	3:00 P.M.	July 10 th , 2024, Wednesday
Notice of Intent to Award is issued		July 24 th , 2024 Wednesday
Intended Date for Notice to Proceed		The date the contract is duly executed by both parties. Anticipated Date: July 31 st , 2024 Wednesday
Work Begins		As described in the Notice to Proceed Letter sent to Contractor.

SOVEREIGN IMMUNITY

CIT is a Federally Recognized Indian Tribe and exercises Sovereign Immunity, as stated in CIT Procurement Code, §9-401 *Sovereign Immunity in Connection with Contracts*, as follows:

- (1) *Solicitation and Award of Contracts.* If concerning a matter outside of the Tribal Trust lands, unless otherwise modified by contract signed by duly authorized Tribal Council representative or by funding obligations outside the control of Tribal government, the Cowlitz Tribal Court shall have jurisdiction over an action between the Tribe and a bidder, offeror, or contractor, prospective or actual, to determine whether a solicitation or award of a contract is in accordance with the Constitution, statutes, policies, and the terms and conditions of the solicitation. The Tribal Court shall have such jurisdiction, whether the actions are at law or in equity, and whether the actions are for monetary damages or for declaratory, injunctive, or other equitable relief.

- (2) *Debarment or Suspension.* The Cowlitz Tribal Court shall have jurisdiction over an action between the Tribe and a person who is subject to a suspension or debarment proceeding, to determine whether the debarment or suspension is in accordance with the Constitution, statutes, and policies. The Cowlitz Tribal Court shall have such jurisdiction, whether the actions are at law or in equity, and whether the actions are for declaratory, injunctive, or other equitable relief.

- (3) *Actions Under Contracts or for Breach of Contract.* The Cowlitz Tribal Court shall have jurisdiction over an action between the Tribe and a contractor, for any cause of action which arises under, or by virtue of, the contract, whether the action is at law or in equity, whether the action is on the contract or for a breach of the contract, and whether the action is for monetary damages or declaratory, injunctive, or other equitable relief.

- (4) *Limited Finality for Administrative Determinations.* In any judicial action under this Section, factual or legal determinations by employees, agents, or other persons appointed by the Tribe shall have no finality and shall not be conclusive, notwithstanding any contract provision, regulation, or rule of law to the contrary, except as provided in Section 3-701 (Finality of Determinations).

By submitting a proposal to this solicitation, Bidder agrees that the Cowlitz Indian Tribe has not waived or otherwise abridged its sovereign immunity. The Bidder further understands that the Cowlitz Indian Tribe does not and will not submit to the jurisdiction of any state or Federal courts in any finally executed contract between the parties.

Notwithstanding any other terms or provisions of this RFP and any subsequent executed contract, Contractor understands and agrees that the Cowlitz Indian Tribe, by posting this RFP and/or entering into subsequent contracts, the Cowlitz Indian Tribe does not waive its sovereign immunity from suit, nor does it waive, alter, or otherwise diminish its sovereign rights, privileges, remedies, or services guaranteed by federal law.

ATTACHMENT A

SCOPE OF WORK

Project Description:

Provide Washington Department of Licensing certified unarmed security guards for 24hr coverage at the Longview properties. 1 security guard will be on site for all hours. The shifts will be split in 8hrs creating 3 shifts in a 24hr period. The guard will be responsible for being a physical presence on the site. During operations hours the guard will check and confirm that all patrons allowed into the secured area have a valid employee badge.

Vendor will provide Security Patrol Services to deter criminal activity as well as services that include but are not limited to;

- Checking doors and windows making sure buildings and vehicles are locked and secured.
- Walking people to vehicles upon request.
- Observe and/or contact any suspicious persons on property to get them to leave or if necessary, call law enforcement.
- Patrol all of the buildings at a minimum of every hour.
- Logging all events of the night as well as addressing issues such as lights that are not working, or anything broken or hazardous.
- Keep logs of suspicious persons and vehicles including photos if able.

When closed the guard will be roaming the grounds and ensuring that all buildings, doors and windows or containers are properly locked, and the exterior gate is also locked. They will deter criminal activity and report to both the point of contact for the tribe and police any criminal activity seen or discovered. People who are not authorized to be on property will be asked to leave and we will prevent further people from accessing the property unless they have a valid reason for being there.

The unarmed guards assigned to this position will have received 8hrs of unarmed guard training as required by WA DOL and additional company training. They will also have good customer service and people skills. They will be given company uniforms and equipment that are suitable for the position and times of day they will be working.

Security guards will provide written and verbal incident reports to the point of contact that involve any actual, suspected, or imminent crimes, emergencies, or threats to life or property immediately.

Security company will provide a weekly report of all activities to the point of contact on Mondays.

CIT will be able to reach someone with concerns 24/7.

Contract will be issued for a three-year term beginning August 2024.

**ATTACHMENT B
BID FORM**

SECTION 00041

THE PROJECT AND THE PARTIES

1.01 TO:

- A. Cowlitz Indian Tribe (the Owner)
- B. 1055 - 9th Avenue
- C. Longview, WA 98632

1.02 FOR: 24/7 Security for the Cowlitz Indian Tribe

1.03 SUBMITTED BY: (Bidder to enter name and address)

- A. Bidder's Full Name _____
 - 1. Address _____
 - 2. City, State, Zip _____

1.04 OFFER

- A. Having examined the Place of The Work and all matters referred to in the Instructions to Bidders, Supplemental Instructions to Bidders, and the Contract Documents prepared by the Cowlitz Indian Tribe for the above-mentioned project, we, the undersigned, hereby offer to enter into a Contract to perform the Work for the Sum of:
- B. **Base Bid:** _____
(dollars (Words Only) \$ _____, (Figures Only) in lawful money of the United States of America.
- C. The Bid Amount includes Tax.

1.05 ACCEPTANCE

- A. This offer shall be open to acceptance and is irrevocable for thirty days from the bid closing date.
- B. If this bid is accepted by Cowlitz Indian Tribe within the time period stated above, we will:
 - 1. Furnish the required bonds within seven days of receipt of Notice of Award.
 - 2. Commence work within seven days after written Notice to Proceed for this bid.
- C. If this bid is accepted within the time stated, and we fail to commence the Work or we fail to provide the required Bond(s), the security deposit shall be forfeited as damages to Cowlitz Indian Tribe by reason of our failure, limited in amount to the lesser of the face value of the security deposit or the difference between this bid and the bid upon which a Contract is signed.
- D. In the event our bid is not accepted within the time stated above, the required security deposit shall be returned to the undersigned, in accordance with the provisions of the Instructions to Bidders; unless a mutually satisfactory arrangement is made for its retention and validity for an extended period of time.

1.06 CONTRACT TIME

If this Bid is accepted, we will complete all work and clean up as scheduled in Section **Target Schedule of Events** of this RFP.

1.07 ADDENDA

- A. The following Addenda have been received. The modifications to the Bid Documents noted below have been considered and all costs are included in the Bid Sum.
 - 1. Addendum # _____ Dated _____.
 - 2. Addendum # _____ Dated _____.
 - 3. Addendum # _____ Dated _____.
 - 4. Addendum # _____ Dated _____.

1.08 BID FORM SIGNATURE(S)

- A. The Corporate Seal of
- B. _____
- C. (Bidder - print the full name of your firm)
- D. was hereunto affixed in the presence of:
- E. _____
- F. (Authorized signing officer, Title)
- G. (Seal)
- H. _____
- I. (Authorized signing officer, Title)

1.09 If the Bid is a joint venture or partnership, add additional forms of execution for each member of the joint venture in the appropriate form or forms as above. Using a copy machine, copy this page and complete paragraph 1.08 for each joint venture or partnership and attach to this Bid Form.

END OF BID FORM

**ATTACHMENT D
SAMPLE CONTRACT**

VENDOR AGREEMENT

Between:

The Cowlitz Indian Tribe on behalf of its Public Works Department
929 Fir Street
Longview, WA 98632
General Phone: (360) 353-9932
Program Phone: (360) 353-9203
(Hereinafter "Tribe")

Company Name
Address
Address
Phone:
(Hereinafter "Vendor")

This Vendor Agreement ("Agreement") is executed by and between Vendor and the Tribe, a federally recognized sovereign nation pursuant to 65 Fed. Reg. 8436 (Feb. 18, 2000). Vendor and Tribe may be collectively referred to herein as the "Parties", and each may be referred to as a "Party".

TERMS & CONDITIONS

1. *Term.* The effective term of this Agreement shall be for exactly one year from the date the Agreement is fully executed by the parties absent a valid termination action in accordance with the express terms of this Agreement.
2. *Vendor Obligations.* The Vendor agrees to perform services as set forth below and detailed in the attached "Exhibit A— Statement of Work" (collectively, the "Services")
3. *Designated Staff Contacts.* The following Staff Contacts shall act as the primary points of contact for the Parties during the term of this Agreement. Tribe and Vendor agree that these Staff Contacts are designated for purposes of technical communication and service coordination only, and shall have no authority to authorize any changes, modifications, or addendums to this Agreement. The Parties may from time to time change their designated Staff Contact by giving the other Party reasonable notice of such change.

Tribe's Staff Contact:

Dean Reynolds, Director, Department of Public Works.

Telephone: 360-353-9203

Cellphone: 360-355-8978

Email: dreynolds@cowlitz.org

Vendor's Staff Contact:

Vendor's Staff Contact:

SPOC, Title

Telephone:

Email:

4. *Notice; Designated Legal Contacts.* All legal notice required by or issued pursuant to this Agreement must be provided in writing, and shall be delivered postage pre-paid via certified mail or a reputable overnight courier to the following Legal Contacts:
 - 4.1. Legal notice to Vendor shall be at the address set forth on page one of this Agreement, and care of the Vendor's designated staff contact identified above.
 - 4.2. Legal notice to the Tribe shall be to the Cowlitz General Council Chair at the address set forth on page one of this Agreement, with courtesy copies sent to the Tribe's designated Staff Contact listed above, and to the General Counsel of the Cowlitz Indian Tribe Legal Department at P.O. Box 2547 Longview, WA 98632.
 - 4.3. Either Party may from time to time change its designated address for legal notice, or designated Legal Contact(s) for notice, by giving the other Party reasonable notice of such change in writing.
5. *Change Orders.* Vendor understands and agrees that any material changes, modifications, or addendums to this Agreement and/or the underlying Project must be authorized in writing by the Cowlitz Tribal Council, acting through its designated representative and executed by the Cowlitz General Council Chair.
6. **Compensation.**
 - 6.1. *Maximum Compensation.* The maximum total compensation amount approved by Tribe and payable to Vendor under this contract shall not exceed \$ XX (XXX and 00/100 Dollars); which amount shall include any and all compensation for Services and "Eligible Expenses" (including but not limited to mileage, travel, and payment or reimbursement of direct actual costs and expenses), as further described below and set forth in detail in the attached "Exhibit B — Budget". If Exhibit B describes separate and specific maximum compensation amounts for Services and expenses, then at the end of the term

of this Agreement, any remaining balance in the amount allocated for expenses may be used by Tribe, at its sole discretion, to cover fees for authorized Services, so long as the total compensation amount set forth above is not exceeded.

- 6.2. *Rates.* Tribe shall compensate Vendor according to the billing rate(s) and/or fee schedule(s) set forth in Exhibit B in an amount not to exceed that stated in Section 6.1 above.
- 6.3. *Eligible Expenses.* Vendor may only seek reimbursement for Eligible Expenses, which are those reasonable expenses incurred with the prior written approval of Tribe or its designated representative. For Eligible Expenses, Vendor must provide a receipt or other proper proof of expense to receive reimbursement from Tribe.
 - 6.3.1. *Travel Expenses.* Subject to applicable law, Tribe shall evaluate and determine the reasonableness and allowability of travel expenses in accordance with the standards set forth in 41 C.F.R. Subtitle F, Chapter 301, as amended. Provided, however, that where such standards conflict with any Cowlitz Indian Tribe law or policy, the Cowlitz Indian Tribe law or policy shall govern.
 - 6.3.2. *Ownership of Expensed Items.* Tribe shall retain sole and exclusive ownership of all property — real, movable, and/or intellectual — for which Tribe has provided any reimbursement to Vendor under this Agreement. Vendor shall promptly deliver to Tribe any Cowlitz Indian Tribe property upon request, or at the completion or termination of this Agreement.
- 6.4. *Availability of Funds.* Notwithstanding any other provisions of this Agreement, Vendor understands and agrees that compensation for Services and expenses under the terms of this Agreement shall be contingent upon the availability of funds (a) placed to the credit of Tribe in the Treasury of the United States, (b) appropriated by Congress, or (c) from local funds maintained in the name of the Tribe.
- 6.5. *Federal & Grant Funds.* Vendor understands and agrees that contracts funded by federal funds or other grant funds may be subject to certain legal requirements. These may include, but are not limited to, those requirements set forth in the United States Office of Management and Budget's Uniform Guidance, 2 C.F.R. Part 200, and/or the terms of an applicable source grant. Vendor agrees to comply with and utilize funds in accordance with all applicable laws, regulations, and guidelines, and in accordance with any applicable grant or contract terms. Vendor understands and agrees that the use of such funds may be subject to audit by the grantor. Vendor shall reimburse Tribe for any costs of the Vendor that are disallowed by a grantor.
- 6.6. *Invoicing & Payment.* Vendor shall submit monthly invoices and appropriate supporting documentation to Tribe, including, but not limited to, expense receipts and a brief

summary of daily activities associated with Services performed by Vendor. Unless the Parties agree in writing to different terms, invoice periods shall begin on the first day of each month and end on the last day of each month. Invoices shall be submitted by Vendor to Tribe's designated Staff Contact within fifteen (15) days after the end of the month in which the Services were provided and/or expenses were incurred. Vendor waives the right to receive full payment on invoices submitted more than sixty days following the end of the proper invoice period.

6.6.1. *Progress Reports.* At Tribe's request, or as otherwise agreed upon by the Parties in writing, Vendor shall submit a progress report along with its monthly invoice. Such progress reports should generally include, as attached exhibits, copies of all work product prepared or created by Vendor during the relevant invoice period(s). In addition, at Tribe's request, Vendor will provide oral reports and presentations to the Cowlitz Tribal Council and/or General Council.

6.6.2. *Invoice Issues.* If a question or concern arises regarding an item on an invoice, Tribe shall notify Vendor of the question or concern. Within five (5) business days following such notification, Vendor shall take action to sufficiently explain or correct the item, or Vendor shall be deemed to have waived their right to demand payment for the item.

7. Maintenance & Retention of Records; Financial Management for Accounting and Audits. Vendor shall maintain and retain auditable records during the term of this Agreement and for a period of at least three (3) years following the expiration or termination of this Agreement. Vendor shall maintain its records to comply with the Audit Act of 1984, P.L. 98-502 (31 U.S.C. § 7501 et. seq.), as amended, and the Office of Management and Budget's Uniform Guidance requirements set forth at, 2 C.F.R. part 200, Subpart F, as amended. Vendor shall adhere to a systematic accounting method that assures timely and appropriate resolution of audit findings and recommendations in compliance with the Uniform Guidance. Subject to applicable law, Vendor agrees that the Tribe, the grantor agency (if applicable), the Comptroller General of the United States, or any of their duly authorized representatives, shall have timely access to Vendor's records which are pertinent to the subject matter of this Agreement and the performance of obligations contained herein, for the purpose of conducting an audit and/or examination, and/or making copies.

8. Performance.

8.1 *Independent Contractor.* Vendor shall employ, at its own expense, all personnel reasonably necessary to perform the Services contemplated by this Agreement. Such personnel shall not be considered Tribe's employees. Vendor shall ensure that all personnel engaged in performing Services are fully qualified to undertake the work in accordance with applicable tribal, federal, state, and local laws. Vendor shall at all times in performance of this Agreement operate as, and have the status of, an independent contractor, and will not be an agent or employee of Tribe; nor will Vendor or its personnel

be entitled to any employee benefits provided by the Tribe. The Parties are not engaged in a joint venture or partnership. Neither Party can represent or bind the other.

8.2 *Discrimination.* Vendor shall not discriminate against any employee or applicant for employment because of handicap, race, age, religion, or sex. Vendor will take affirmative steps to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their handicap, race, age, religion, or sex.

8.2.1 *Indian Preference.* Notwithstanding the above, Vendor shall, for all work performed on or near the Cowlitz Indian Reservation pursuant to this Agreement, and consistent with Section 703(i) of the 1964 Civil Rights Act, give preference in employment (including any authorized subcontracts) to equally qualified Indians regardless of their handicap, age, religion or sex. To the extent feasible and consistent with the efficient performance of this Agreement, the Vendor shall provide employment and training opportunities to Indians that are not fully qualified to perform under this Agreement, regardless of their handicap, age, religion or sex. Further, the Vendor shall comply with any applicable Indian preference laws and requirements established by the Cowlitz Indian Tribe.

8.3 *Taxes, Permits, Fees.* Unless expressly agreed to herein, the Tribe shall not be responsible for the payment of any taxes, permits, licenses or other expenses incurred by Vendor during the performance of this Agreement. Vendor shall be solely responsible to secure and pay for any necessary or appropriate permits, fees, licenses, inspections, or other prerequisites necessary for proper performance of the Services contemplated by this Agreement.

8.4 *Subcontractors.* Vendor shall not be permitted to hire a subcontractor to perform the Services contemplated by this Agreement without the Tribe's express prior written authorization. Any unauthorized attempt by Vendor to subcontract for such Services shall be null and void, and Vendor shall be responsible for all expenses, fees, and costs associated with any such unauthorized subcontract.

8.5 *Assignment.* Vendor shall not assign its interest in this contract, or any part thereof, including its right to receive payment for Services performed, to another Party. Any attempt by Vendor to assign any obligations, rights, or fees under this Agreement will be null and void, and Vendor shall be responsible for all expenses, fees, and or costs associated with any unauthorized assignment.

8.6 *Location of Work.* Vendor shall perform work at the following location: TBD

9. Representations & Warranties.

- 9.1. *Professional Work.* Vendor shall perform Services in a professional, thorough, skillful, and safe manner, consistent with the relevant standard of care expected from professionals with similar credentials and experience, and in accordance with the usual and customary standards accepted in Vendor's profession for similar projects. Vendor shall notify Tribe of any inconsistencies or errors in Vendor's work that do not meet the aforementioned standards as soon as possible.
- 9.2. *Compliance with Applicable Laws.* Vendor shall comply with all applicable tribal, federal, state and local laws, regulations, guidelines and policies in performance of Services and fulfillment of duties and obligations pursuant to this Agreement. Vendor represents that it has reviewed, and is familiar with, all laws relevant to the performance of Services under this Agreement.
- 9.3. *Project Conflicts.* Vendor shall not accept work from any third party during the term of this Agreement that creates a conflict of interest or the appearance of a conflict of interest with the Tribe.
- 9.4. *Broad Protection.* All representations and warranties set forth in this section, or memorialized elsewhere in this Agreement and its Exhibits, shall be interpreted expansively to afford the broadest protection available to Tribe.

10. **Access to Records, Personnel, and Facilities.** Subject to applicable law, Tribe will provide Vendor with reasonable access to its personnel, facilities, and records necessary to the performance of this Agreement.

10.1 *Confidential Information.* Where Vendor receives any documents or information typically maintained in confidence by the Tribe ("Confidential Information"), Vendor will, subject to applicable law, make all reasonable efforts to prevent the disclosure of such Confidential Information to any and all third parties. Further, Vendor shall not use the Confidential Information for any purposes other performance of this Agreement.

11. Work Product.

11.1. *"Work Product" Defined.* "Work Product" includes, but is not limited to, any and all papers, reports, information, drawings, internal memoranda, files, proposals, papers, copyrights, patents, photographs, data, and any written or graphic material, or any other material or property, whether stored electronically or in hard copy, in any and all formats including native formats, and however produced, prepared, collected, generated, or created by the Vendor in connection with this Agreement.

11.2. *Ownership.* Tribe shall own all Work Product associated with this Agreement; and Vendor agrees that it will not retain any interest in such work product, and shall, in accordance with any and all applicable law, turn over all Work Product property to Tribe upon the expiration or termination of this Agreement or upon request.

11.3. *Confidentiality.* All Work Product shall be considered highly confidential, and Vendor shall take all necessary measures to maintain that confidentiality, and shall not disclose, publish, or disseminate any Work Product without the express prior written authorization from Tribe. Internally, Vendor shall only disclose Work Product to employees when necessary to perform the Services contemplated by this Agreement; and Vendor shall require all employees to maintain the Work Product's confidentiality.

11.4. *Injunctive Relief.* Vendor acknowledges that the breach or threatened breach by Vendor of the terms and provisions of this Section would cause irreparable injury to the Tribe, which could not be adequately compensated by money damages. Thus, Vendor agrees that Tribe may obtain a restraining order and/or injunction prohibiting Vendor's breach or threatened breach of these provisions in addition to any other legal or equitable remedies. Vendor agrees that this provision is fair and necessary to protect the Tribe's unique political and cultural interests, rights, and confidential information.

12. Insurance.

12.1. *Whether Required.* Insurance IS IS NOT required. (If unchecked, insurance is required.)

12.2. *Generally.* If insurance is required, Vendor shall (subject to applicable law) maintain, at a minimum, the following insurance throughout the term of this Agreement and for a period of three (3) years following substantial completion or termination of the Project, naming Tribe as an additional insured:

12.2.1 Commercial General Liability Insurance in the amount of at least one million dollars per occurrence and two million dollars aggregate.

12.2.2 Commercial Automobile Liability Insurance in an amount equal to the greater of either (a) one million dollars for all vehicles used in performance of Services pursuant to this Agreement, or (b) any other amount required by applicable law.

12.2.3 Worker's Compensation Insurance, Disability Benefits Insurance, and any other insurance required by applicable law.

12.3. *Delivery of Certificates.* If insurance is required, Vendor shall deliver certificates of insurance showing the foregoing coverage within ten days of the start of the work.

12.4. *Cancellation, Termination, and/or Lapse of Insurance.* Vendor agrees to provide Tribe with at least thirty (30) days prior notice of Vendor's intent to cancel, terminate, or allow any insurance policy required herein to lapse during term of this Agreement, and for a period of three (3) years following the expiration or termination of this Agreement.

12.5. *No Subrogation.* Vendor waives all subrogation rights it may have against the Tribe and any of the Tribe's contractors, subcontractors, agents, officers, employees or entities.

13. Indemnification. Vendor agrees to, at its sole expense, hold harmless, indemnify, and (at Tribe's sole discretion) defend the Tribe and its officers, agents, employees, and assigns against any and all claims, demands, judgments, losses, costs, damages, expenses or other liabilities whatsoever, including court costs and reasonable attorney's fees and expenses, incurred by or claimed against the Tribe, its officers, agents, employees, and/or assigns, that arise out of or are based upon, whether directly or indirectly, Vendor's and/ or Vendor's employees', officers', or agents' errors, actions, omissions, and/or breach of contract related to this Agreement, including, but not limited to, accidents or injuries to persons or property.

Termination.

13.1. For Convenience. Either Party may terminate this Agreement by giving to the other Party at least ninety (90) days prior written notice. The notice shall specify the effective date of termination.

13.2. For Breach. Either Party may immediately terminate this Agreement by written notice following a material breach by the other Party.

13.3. By Tribal Council Executive Committee. Notwithstanding anything herein to the contrary, Vendor understands and agrees that the Cowlitz Tribal Council Executive Committee may immediately terminate this Agreement by written notice.

13.4. Effect. Upon termination, the obligations of the Parties for the further performance of this Agreement shall cease, but the Parties shall not generally be relieved of the duty to perform their obligations arising up to the date of termination. Termination shall in no way limit or restrict any right or remedy at law or equity which would otherwise be available to Tribe, including, but not limited to, the right to contract with other qualified persons to complete the performance of Services identified in or contemplated by this agreement.

14. Dispute Resolution.

14.1. Negotiation. If a dispute arises between the Parties over the performance, interpretation, or enforcement of this Agreement, the Parties in the first instance shall attempt in good faith to resolve the dispute informally through face-to-face negotiations. These negotiations shall take place at the Cowlitz Indian Reservation in Ridgefield, Washington, unless otherwise agreed upon in writing by the Parties. All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the Parties, their agents, employees, experts and/or attorneys shall be considered confidential, privileged and inadmissible for any purpose, including impeachment, in any other proceeding involving the Parties. Provided, however, that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiations.

14.2. By General Council Chairman. If the Parties are unable to resolve the dispute through negotiation, the aggrieved Party shall submit the matter, in writing, to the Chairman of

the Cowlitz Tribal Council. A copy of the aggrieved Party's submission shall be served upon the other Party in accordance with the notice provisions of this Agreement. The Chairman shall promptly convene a meeting of the Parties, which shall be held at the Cowlitz Indian Reservation in Ridgefield, Washington, to resolve the matter. The decision of the Chairman shall be final and binding upon both Parties. Provided, however, that nothing shall operate to limit or prohibit Tribe from otherwise enforcing its rights under this Agreement.

14.2.1. *Conflict of Interest.* In the event that the Chairman has a conflict of interest that would prevent her/him from hearing the dispute, s/he may, at her/his sole discretion, either decline to hear the dispute, or appoint an alternate Tribal Leader or Elder to serve in his/her place.

15. General Terms.

15.1. *Headings.* Headings are provided for convenience and do not affect the meaning of the provisions to which they are affixed.

15.2. *Severability.* If any term of this Agreement is to any extent illegal, otherwise invalid, or incapable of being enforced, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term.

15.3. *Entire Agreement.* This Agreement incorporates all of the agreements, covenants, and understandings between the Parties, and supersedes all prior or contemporaneous oral or written agreements between the Parties. No agreement or understanding, verbal or otherwise, of the Parties regarding their responsibilities under this Agreement shall be valid or enforceable unless embodied in the Agreement.

15.3.1. *Attachments.* The following documents are hereby incorporated by this reference and made part of this Agreement:

- **Exhibit A – Statement of Work**
- **Exhibit B – Budget**
- **Exhibit C – Change Order Form**

15.4. *Amendments.* No change, amendment, modification, or addendum to this Agreement shall be valid unless it is in writing and executed by authorized representatives of both Parties.

15.5. *Survival.* The requirements of Section 7 (Maintenance & Retention of Records; Financial Management for Accounting & Audits), Section 11 (Work Product), Section 13 (Indemnification), and Section 15 (Dispute Resolution) of this Agreement shall survive termination of this Agreement. Further, provisions that, by their nature, are reasonably expected by the Parties to be performed after the expiration or termination of

this Agreement shall survive and be enforceable. Any and all liabilities, actual or contingent, which have arisen during the term of and in connection with this Agreement, shall survive the expiration or termination of this Agreement.

15.6. *No General Waiver.* Any waiver or failure of the Parties to enforce or insist upon any term in this Agreement does not constitute a general waiver or relinquishment of that term.

15.7. *No Construction Against Drafter.* Each party has participated in negotiating and drafting this Agreement. If any ambiguity or question of intent or interpretation arises, this Agreement is to be construed as if the Parties had drafted it jointly, as opposed to being construed against one party because it was responsible for drafting one or more provisions.

15.8. *Conflicts.* In the event of a conflict between the terms and conditions of this Agreement and those of a Statement of Work or other exhibit or attachment to this Agreement, the terms and conditions of this Agreement shall be controlling.

15.9. *Execution.* This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement and any ancillary documents may be executed and/or delivered by electronic means by any of the Parties to any other Party and the receiving Party may rely on the receipt of such document so executed or delivered as if the original had been received.

17. **Force Majeure.** This Agreement is subject to force majeure, and is contingent on strikes, accidents, acts of God, weather conditions, fire, and other circumstances that are beyond the control of the Parties. If the terms and conditions of this Agreement are unable to be performed as a result of any cause of force majeure, then this Agreement shall be void, without penalty to any Party for such non-performance.

18. **Jurisdiction & Venue.** The validity, interpretation, and performance of this Agreement, and any and all written instruments, agreements, specifications and other writings of whatever nature which relate to or are part of this Agreement, shall be governed by and construed in accordance with the laws of the Cowlitz Indian Tribe. This Agreement is deemed executed at the Cowlitz Indian Reservation in Ridgefield, Washington. Both Parties understand and agree that this Agreement establishes a consensual business relationship between the Parties for purposes of Cowlitz Tribal Court jurisdiction. Venue of any court action filed to enforce or interpret the provisions of this Agreement shall be exclusively in the Cowlitz Tribal Court(s). In the event of litigation to enforce the provisions of this Agreement, the prevailing Party shall be entitled to reasonable legal fees and expenses in addition to any other relief allowed.

19. **Sovereign Immunity.** Notwithstanding any other terms or provisions of this Agreement, Vendor understands and agrees that the Cowlitz Indian Tribe, by entering into this Agreement,

does not waive its sovereign immunity from suit, nor does it waive, alter, or otherwise diminish its sovereign rights, privileges, remedies, or services guaranteed by federal law.

20. Special Provisions. In addition to the forgoing terms and conditions, the following requirements are agreed to and shall apply to this Agreement:

20.1 Domestic preferences for procurements.

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

IN WITNESS WHEREOF, we set our hands and seals:

[Signature page(s) to follow.]

Cowlitz Indian Tribe:

By: _____

Date: _____

Name:
Title: Tribal Manager

Company:

By: _____

Date: _____

Name: XXXXX
Title: XXXXXX

SAMPLE

EXHIBIT A
STATEMENT OF WORK

Vendor will furnish and provide the following services:

SAMPLE

EXHIBIT B
BUDGET

SAMPLE

EXHIBIT C CHANGE ORDER FORM



Change Order Form

PO Box 2547, 1055 9th Avenue, Longview, WA 98632 USA • P: 360-577-8140 • F: 360-577-7432 • W: www.cowlitz.org

CHANGE ORDER No. X
 DATE: X
 PROJECT: X
 CONTRACT No. & DATE: X

This Change Order incorporates by reference the Agreement between COMPANY NAME and the Cowlitz Indian Tribe dated MM-DD-YYYY. The contract is changed as follows:

The Cowlitz Indian Tribe has elected to move forward with the XXX.

Please follow the contract terms when invoicing for the above line items

Total for Change Order No.: + or - \$ XXX,XXX.00

If there are several items to one RCO or CO list them individually & the prices individually per item.

The Original Contract Amount was:	\$ XXX,XXX.00
Net Change by previously authorized Change Orders:	+ or - \$ XXX,XXX.00
The Contract Amount prior to this Change Order was:	\$ XXX,XXX.00
The Contract Amount will be increased / decreased by this Change Order in the amount of	+ or - \$ XXX,XXX.00
The Revised Contract amount including this Change Order will be	\$ XXX,XXX.00
The Contract Time / Duration will be Changed by	X Calendar Days
The Date of Substantial Completion as of the date of this Change Order therefore is	MM-DD-YYYY

CONTRACTOR / ARCHITECT:

Signature: _____
 Printed Name: _____
 Company: _____
 Title: _____
 Date: _____

OWNER / CIT REPRESENTATIVE:

Signature: _____
 Printed Name: _____
 Department: _____
 Title: _____
 Date: _____

CIT - Cowlitz Indian Tribe